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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,994	11/26/2003	Bruce D. Quimby	10010994-5	9561

7590 12/13/2004
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, CO 80537-0599

EXAMINER


BHAT, ADITYA S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/722,994	Applicant(s) QUIMBY ET AL.	
	Examiner Aditya S Bhat	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 14-16, 18-23, 25, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-21 is/are allowed.
- 6) ☒ Claim(s) 1 and 25 is/are rejected.
- 7) ☒ Claim(s) 2-4, 14-16, 22, 23, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Klee et al. (USPN 6,493,639)

With regards to claim 1, Klee et al. (USPN 6,493,639) teaches a process for correcting a time axis of local chromatographic data to match reference chromatographic data while maintaining peak areas, comprising:

obtaining reference calibration data from a reference chromatographic system; (Col. 4, lines 45-47)

obtaining local calibration data from a local chromatographic system; (Col. 7, lines 56-59)

generating local system correction functions based on an appropriate mathematical relationship using the reference calibration and the local calibration data; (Col. 6, lines 63-65) and

applying the local system correction functions to local chromatographic data to generate corrected local chromatographic data, (Col. 5, lines 43-45)

wherein the corrected local chromatographic data match with the reference calibration data on time axis and wherein peak areas in the local chromatographic data are maintained in the corrected local chromatographic data.(Col. 1 & 2, lines 64-67 and 1-6)

With regards to claim 25, Klee et al. (USPN 6,493,639) teaches an chromatographic apparatus for analyzing samples, comprising:

means for producing local chromatographic data; (104;see figure 1) and

means for generating corrected local chromatographic data that match with reference chromatographic data on a time axis while maintaining peak areas of the local chromatographic data, (Col. 1 & 2, lines 64-67 and 1-6) comprising:

means for creating local system correction functions based on an appropriate mathematical relationship using reference calibration data and local calibration data; (Col. 6, lines 63-65) and

means for applying the local system correction functions to local chromatographic data (Col. 5, lines 43-45)

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Claims 2-4, 14-16, 22-23, and 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 18 and 21:

The primary reason for the allowance of claim 18 and 21 is the inclusion of the method steps of: running a calibration mix on the local system to generate location calibration data. It is this feature found in the claim, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

Claims 19-20 are allowed due to their dependency on claim 18.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

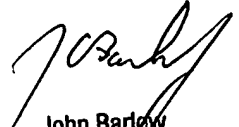
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee et al. (USPN 5,205,154) teaches an apparatus and method for simultaneous supercritical fluid extraction and gas chromatography, Chester et al. (USPUB 2002/0010566) teaches methods for modeling, predicting and optimizing high performance liquid chromatography parameters, Zenhausern (USPUB 20020094531) teaches an apparatus and method for monitoring molecular species within a medium, and Abreu (USPN 6,544,193) teaches noninvasive measurement of chemical substances.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S Bhat whose telephone number is 703-308-0332. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Aditya Bhat
December 8, 2004


John Barlow
Supervisory Patent Examiner
Technology Center 2800